

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA

v.

CHRISTOPHER CANTWELL

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No. 1:20-cr-00006-PB

UNITED STATES’ OBJECTION TO DEFENDANT’S SUPPLEMENTAL EXHIBITS

Under Local Rule 16.1(g) and the Court’s Final Pretrial Order, the United States of America, by Scott W. Murray, United States Attorney for the District of New Hampshire, submits the following objections to Defendant Christopher Cantwell’s Proposed Supplemental Exhibits.

I. Introduction.

Cantwell seeks to introduce his own jail calls and other recorded calls as evidence at trial. These exhibits should be excluded—they are self-serving inadmissible hearsay. Fed. R. Evid. 801. A party cannot offer his *own* statement as an “admission” because the statement is not being offered *against* the declarant. *See* Fed. R. Evid. 801(d); *United States v. Palow*, 777 F.2d 52, 56 (1st Cir. 1985) (noting that hearsay rule’s requirement that admission be offered against a party is designed to exclude self-serving statements); *United States v. Sanjar*, 876 F.3d 725, 739 (5th Cir. 2017) (When offered by the government, a defendant’s out-of-court statements are those of a party opponent and thus not hearsay. When offered by the defense, however, such statements are hearsay (the defendant, may, of course, reiterate the out-of-court statements on the stand if he chooses to testify.” (internal citation omitted)).

Moreover, Rule 106 of the Federal Rules of evidence “does not compel admission of otherwise inadmissible hearsay evidence.” *Phoenix Assoc. III v. Stone*, 60 F.3d 95, 103 (2d Cir. 1995) (internal quotation marks omitted); *United States v. Collicott*, 92 F.3d 973, 983 (9th Cir.

1996) (“Because Zaidi’s out-of-court statements do not fall within an exception to the hearsay rule, they are inadmissible, regardless of Rule 106.”); *United States v. Quinones-Chaves*, 641 F. App’x 722, 725 (9th Cir. 2016) (noting that while due process forbids the government from introducing false evidence, “[i] does not, however, mandate that a court allow a defendant to place his inadmissible statements before the jury without subjecting [himself] to cross-examination.” (citations and internal quotation marks omitted)); *see also United States v. Bauzo-Santiago*, 49 F. Supp. 3d 155, 158 (D.P.R. 2014) (although rule of completeness may be invoked as to otherwise inadmissible evidence, rule operates to ensure fairness where “misunderstanding or distortion” created by other people can only be averted by introduction of full text of out-of-court statement).

Subject to stipulations, the United States objects to all exhibits under Rule 901 of the Federal Rules of Evidence.

II. Objections to Defendant’s Supplemental Exhibits

A SERIES	
Exhibit Name	Objection – Federal Rules of Evidence:
A-14	401, 403, 404, 801
A-15	401, 403, 404, 801

B SERIES	
Exhibit Name	Objection – Federal Rules of Evidence:
B-16	401, 403, 404, 801
B-17	401, 403, 404, 801
B-18	401, 403, 404, 801
B-19	401, 403, 404, 801
B-20	401, 403, 404, 801

C SERIES	
Exhibit Name	Objection – Federal Rules of Evidence:
C-1a	401, 403, 404, 801
C-1b	401, 403, 404, 801
C-1c	401, 403, 404, 801
C-7a	401, 403, 404, 801, 901

F SERIES	
Exhibit Name	Objection – Federal Rules of Evidence:
F-11a	401, 403, 404, 801
F-11b	401, 403, 404, 801
F-11c	401, 403, 404, 801
F-12a	401, 403, 404, 801
F-12b	401, 403, 404, 801
F-14a	401, 403, 404, 801
F-14b	401, 403, 404, 801

G SERIES	
Exhibit Name	Objection – Federal Rules of Evidence:
G-9	401, 403, 404, 801

I SERIES	
Exhibit Name	Objection – Federal Rules of Evidence:
I-2a	401, 403, 404, 801

September 21, 2020

Respectfully submitted,

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United States Attorney

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